

PHARMACY EXAMINING BOARD
REGULAR MEETING
SEPTEMBER 12, 2000

MEMBERS PRESENT: John Bohlman, RPH (excused 2:30-3:20); Charlotte Rasmussen; Sue Sutter, RPH (acting chair 2:30-3:20); Michael Bettiga, RPH; Dan Luce, RPH; Cynthia Benning, RPH; Georgina Forbes

LEGAL COUNSEL: William Black (excused 2:30-3:20)

STAFF PRESENT: Patrick D. Braatz (excused 2:30-3:20), Karen Rude-Evans

GUESTS: Ron Hermes, Merck-Medco; Susan Kleppin, PSW; Jamie Paynter, Dean Pharmacy; Larry Edwards, DOC; Andrew Wilcox, Monica Thiry, Angela Tellefson and David Warnke, students

CALL TO ORDER

Chair John Bohlman called the meeting to order at 9:04 a.m.

APPROVAL OF AGENDA

Amendments: -Minutes of Conference Call 8/30/00
-E-mail regarding renewals
-Proposed Stipulation – Douglas K. Stucky, RPh
-Appearance of Charles West, RPH, scheduled for 1:15, is cancelled

MOTION: Cynthia Benning moved, seconded by Michael Bettiga, to approve the agenda as amended. Motion carried unanimously.

APPROVAL OF MINUTES OF AUGUST 8-9, 2000

Amendments: -On page one, under APPROVAL OF AGENDA, change 'PJE' to 'MPJE'
-On page seven, under REVIEW OF PROPOSED RULES...COLLABORATIVE PRACTICE, the first sentence should read, "Medical doctors can delegate any act consistent with Chapters 448 and 450, Wis. Stats." In the motion, delete the text within the parenthesis.

MOTION: Michael Bettiga moved, seconded by Dan Luce, to approve the Minutes of August 8-9, 2000 as amended. Motion carried unanimously.

APPROVAL OF CONFERENCE CALL MINUTES OF AUGUST 30, 2000

Amendment: -On page 1, under KEVIN PAMPUCH, RPH, in the first line delete "removal" and replace with "termination".

MOTION: Dan Luce moved, seconded by Cynthia Benning, to approve the Conference Call Minutes of August 30, 2000 as amended. Motion carried unanimously.

PRESENTATION OF PROPOSED STIPULATIONS

MICHAEL W LEAHAN, RPH

Attorney Arthur Thexton presented a proposed stipulation in the matter regarding Michael W. Leahan, R.Ph. This matter will be deliberated in closed session.

DOUGLAS K STUCKY, RPH

Attorney Arthur Thexton presented a proposed stipulation in the matter regarding Douglas K. Stucky, R.Ph. This matter will be deliberated in closed session.

SECRETARY CUMMINGS

Secretary Cummings said DOE is reviewing their monitoring system to see if it can be streamlined and possibly be more efficient, however no decisions have been made yet.

SUMMARY REPORTS ON PENDING COURT CASES, DISCIPLINARY CASES AND ADMINISTRATIVE RULES

These reports were informational.

FINAL ADOPTION OF RULES RELATING TO AUTOMATED DISPENSING OF PRESCRIPTION DRUGS

MOTION: Cynthia Benning moved, seconded by Dan Luce, to adopt the rules relating to automated dispensing of prescription drugs. Motion carried unanimously.

REVIEW PROPOSED RULES RELATING TO DELEGATION OF DUTIES BY A PHARMACIST

MOTION: Dan Luce moved, seconded by Michael Bettiga, to have legal counsel make the changes discussed but to not send the proposed rules to the Legislature until the technician ratio rule is ready for the Legislature. Motion carried unanimously.

SCOPE STATEMENT FOR TECHNICIAN RATIO RULE

MOTION: Dan Luce moved, seconded by Sue Sutter, to send the scope statement for the technician ratio rule to the Clearinghouse for publication. Motion carried unanimously.

REVIEW PROPOSED RULES REGARDING PRESCRIPTION PADS

This was tabled until the next Board meeting.

DISCUSSION OF STIPULATIONS/STAYS

The Board had a discussion, and wants all future orders to have a provision that the Board's DOE liaison has the power to revoke a stay if the licensee is non-compliant with their Order.

DISTRIBUTOR/MANUFACTURER'S APPLICATIONS

MOTION: Michael Bettiga moved, seconded by Dan Luce, to approve Distributor/Manufacturer's licenses to **Air Liquide America Corporation, Burlington; Apotheca, Inc., AZ; Apria Healthcare, Inc., IL; Balgo and Associates, Inc., MN; Cybearclub, FL; Gentrac, Inc., Middleton; Obagi Medical Products, Inc., CA; Gulf South Medical Supply, Inc., Windsor; Home Medical Products Services, Hayward; Integrated Commercialization Solutions, KY; Medical Distribution, Inc., KY; National Pharm Pak SVCS, Inc., OH; Parr Emergency Product Sales, Inc., OH; Praxair Distribution, Inc., Rice Lake; Promex Medical, Inc., NY; St. Mary's Medical Park Pharmacy, AZ; and Triplefin, Inc., OH.** Motion carried unanimously.

AMERISOURCE CORPORATION, PA

MOTION: Dan Luce moved, seconded by Michael Bettiga, to approve the Distributor application of Amerisource Corporation, PA. Motion carried unanimously.

EQUIPMENT DRAFT RULE UNDER 6.06

The Board received the handout and will discuss this at the next meeting.

CENTRAL FILL DRAFT RULE

The Board received the handout and will discuss this at the next meeting.

CONSULTING EXAM AND RELATED ACTIVE PRACTICE

The Board discussed some language changes with legal counsel.

MOTION: Dan Luce moved, seconded by Sue Sutter, to send the rule to the Clearinghouse. Motion carried unanimously.

COLLABORATIVE PRACTICE

The Board received a handout from the Medical Examining Board in response to the PEB question on collaborative practice. This will be discussed at the next PEB meeting.

RULES STATUS REPORT

The transfer rule needs to be restarted, as there was a substantive change.

MOTION: Sue Sutter moved, seconded by Michael Bettiga, to re-publish the scope statement for the proposed transfer rule. Motion carried unanimously.

REQUEST FROM MEDDATA HEALTHCARE SYSTEMS, INC., CA

The Board reviewed a request from MedData Healthcare Systems, Inc., of California, to use their electronic prescription submission system, MedDirect, in Wisconsin. The Board's opinion was that if this system is in compliance with Wisconsin law, it may be used in Wisconsin.

PRACTICE QUESTIONS

GUNDERSEN LUTHERAN

Q1. Can a pharmacist practice variance be granted to allow a licensed pharmacist to work in a Physician Office Practice *and* participate in the supervision and preparation of IV products, which includes "delegated physician dispensing" under Chapter Med 17?

A1. Yes, pharmacists can participate in delegated physician dispensing, provided the pharmacist does not undertake a delegated act that would otherwise violate pharmacy law.

Q2. If the Oncology Practice, or the medical center itself, pursues obtaining a pharmacy license for a mixing room, so that pharmacists could be involved in the direct supervision and preparation of IV infusion products, of which some may go home with the patient, how much variance latitude is allowed? Can this mixing room in the oncology practice be licensed as a satellite pharmacy to the main campus pharmacy across the street, and then be granted significantly greater variances to Phar 6?

A2. A pharmacy license is not needed if physician dispensing occurs.

a) If a pharmacy license is sought, the type of variance requested should be submitted in writing for evaluation.

b) Every location for pharmacy practice (i.e. pharmacy dispensing) must be licensed as a pharmacy.

Q3. Should this mixing room in the oncology physician practice obtain licensure as a pharmacy, would the pharmacist be required to be present in that room whenever a technician is performing technical mixing duties?

A3. A pharmacist must provide general supervision in the pharmacy. The pharmacy examining board interprets general supervision to mean that the pharmacist must be present in the pharmacy at any time pharmaceutical services are occurring. Therefore, if the mixing room is licensed as a pharmacy, the pharmacist must be present when pharmaceutical services are occurring.

Q4. Can the pharmaceuticals still be supplied from the corporate licensed pharmacy on campus to this licensed mixing room, when it is also a licensed pharmacy?

A4. Yes, however, the Robinson-Patman Act may apply. Consult with private counsel.

COMPREHENSIVE PHARMACY SERVICES (CPS)

Scenarios 1 and 2, as presented, are permitted. Scenario 3, as presented, is permitted, however, consult Robinson-Patman Act with private counsel for compliance, and CPS would need a Wisconsin distributor license.

ST MARY'S HOSPITAL OF SUPERIOR

The Board suggested the pharmacy review Minnesota laws.

REPORT OF PHARMACY INTERNSHIP BOARD (PIB)

Cynthia Benning reported there are now 377 preceptors in the state. The summer interns wrap-up conference went well. The NABP District IV Meeting was also discussed.

REPORT OF CONTROLLED SUBSTANCES BOARD (CSB)

There was no report, as the CSB has not met since the last PEB meeting.

NABP DISTRICT IV MEETING PLANNING SESSION

A planning session for the 2001 NABP District IV Fall Meeting will be held on October 10, 2000 at 10:00 a.m. at the Pharmacy School. Examination grading will begin that day at 9:00 at Regulation and Licensing, followed by the PEB Meeting at 1:00 p.m. The PEB Meeting will continue on October 11, 2000.

RECESS TO CLOSED SESSION

MOTION: Sue Sutter moved, seconded by Charlotte Rasmussen, to recess to closed session pursuant to Chapter 19.85(1)(a), (b), (f) and (g), Wis. Stats., for the purpose of deliberation of proposed stipulations, a personal appearance and considering a request for an unlimited license, considering requests for three month stays of suspension and changes in board orders, reviewing a board order, reviewing case status reports, discussion of exam issues and consulting with legal counsel. Roll call vote: John Bohlman – yes, Charlotte Rasmussen – yes, Sue Sutter – yes, Michael Bettiga – yes, Dan Luce- yes, Cynthia Benning – yes, Georgina Forbes - yes. Motion carried unanimously.

Open session recessed at 12:34 p.m.

RECONVENE IN OPEN SESSION

MOTION: Charlotte Rasmussen moved, seconded by Michael Bettiga, to reconvene in open session. Motion carried unanimously.

Open session reconvened at 3:21 p.m.

VOTING ON ITEMS CONSIDERED/DELIBERATED ON IN CLOSED SESSION

PROPOSED STIPULATIONS

MICHAEL W LEAHAN, RPH

MOTION: Dan Luce moved, seconded by Sue Sutter, to adopt the Findings of Fact, Conclusions of Law and Order in the matter concerning Michael W. Leahan, R.Ph. Motion carried unanimously.

DOUGLAS K STUCKY, RPH

MOTION: Cynthia Benning moved, seconded by Michael Bettiga, to deny the Proposed Stipulation in the matter regarding Douglas K. Stucky, R.Ph., and to return this matter to DOE. The Board requests the ordered education be four modules of 15 hours each, of which one must be cardiovascular. The education is to be completed over a two-year period, with one module every six months. Case Advisor – Sue Sutter. Dan Luce abstained. Motion carried.

PERSONAL APPEARANCE AND REQUEST FOR UNLIMITED LICENSE

DENNIS DEFENBACH, RPH

MOTION: Cynthia Benning moved, seconded by Dan Luce, to grant an unlimited license to Dennis Defenbach, R.Ph. Motion carried unanimously.

REQUEST FOR UNLIMITED LICENSE

CHARLES WEST, RPH

MOTION: Cynthia Benning moved, seconded by Michael Bettiga, to grant an unlimited license to Charles West, R.Ph. Motion carried unanimously.

STAYS OF SUSPENSIONS/CHANGES IN BOARD ORDERS

CORY FORD, RPH

MOTION: Sue Sutter moved, seconded by Charlotte Rasmussen, to grant a three-month stay of suspension to Cory Ford, R.Ph. Motion carried unanimously.

WILLIAM KARWOSKI, RPH

MOTION: Sue Sutter moved, seconded by Dan Luce, to grant a three-month stay of suspension but deny the request for a reduction in therapy and screens to William Karwoski, R.Ph. Motion carried unanimously.

DAVID KLEINGAARTNER, RPH

MOTION: Cynthia Benning moved, seconded by Michael Bettiga, to grant a three-month stay of suspension but deny additional hours as pharmacist in charge to David Kleingaartner, R.Ph. Motion carried unanimously.

RALPH KOCH, RPH

MOTION: Michael Bettiga moved, seconded by Cynthia Benning, to grant a three-month stay of suspension to Ralph Koch, R.Ph. Motion carried unanimously.

MARILYN KUHRT, RPH

MOTION: Sue Sutter moved, seconded by Charlotte Rasmussen, to grant a three-month stay of suspension but deny the request to terminate therapy to Marilyn Kuhrt, R.Ph. Motion carried unanimously.

JAMES MEYER, RPH

MOTION: Cynthia Benning moved, seconded by Sue Sutter, to grant a three-month stay of suspension but deny additional hours as pharmacist in charge to James Meyer, R.Ph. Motion carried unanimously.

REVIEW OF BOARD ORDER

CRAIG MOON, RPH

No Board action was taken at this time in the matter regarding Craig Moon, R.Ph.

PAUL NELSON, RPH

MOTION: Cynthia Benning moved, seconded by Dan Luce, to grant a three-month stay of suspension to Paul Nelson, R.Ph. Motion carried unanimously.

THOMAS TRISCARI, RPH

MOTION: Cynthia Benning moved, seconded by Michael Bettiga, to grant a three-month stay of suspension to Thomas Triscari, R.Ph. Motion carried unanimously.

URINE SCREEN PROCEDURES AT PROFESSIONAL RECOVERY NETWORK (PRN)

MOTION: Sue Sutter moved, seconded by Dan Luce, to have William Black draft a letter to Dr. Engel at PRN stating the Pharmacy Examining Board is concerned about PRN's procedures for urine screens. Motion carried unanimously.

CASE STATUS REPORT

MOTION: Cynthia Benning moved, seconded by Sue Sutter, to close complaint **99 PHM 073** for no violation. Case Advisor – Dan Luce. Motion carried unanimously.

MOTION: Cynthia Benning moved, seconded by Charlotte Rasmussen, to close complaint **00 PHM 030** for prosecutorial discretion. Case Advisor – Michael Bettiga. Motion carried unanimously.

ADJOURNMENT

MOTION: Michael Bettiga moved, seconded by Charlotte Rasmussen, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 3:39 p.m.

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